

Michigan Register

Issue No. 12— 2007 (Published July 15, 2007)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws



Issue No. 12— 2007

(This issue, published July 15, 2007, contains
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Jennifer M. Granholm, Governor



John D. Cherry Jr., Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The State Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
 - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
 - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
 - (d) Proposed administrative rules.
 - (e) Notices of public hearings on proposed administrative rules.
 - (f) Administrative rules filed with the secretary of state.
 - (g) Emergency rules filed with the secretary of state.
 - (h) Notice of proposed and adopted agency guidelines.
 - (i) Other official information considered necessary or appropriate by the State Office of Administrative Hearings and Rules.
 - (j) Attorney general opinions.
 - (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The State Office of Administrative Hearings and Rules shall publish a cumulative index for the Michigan register.
 - (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
 - (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the State Office of Administrative Hearings and Rules may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
 - (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the State Office of Administrative Hearings and Rules for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the State Office of Administrative Hearings and Rules. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the State Office of Administrative Hearings and Rules not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the State Office of Administrative Hearings and Rules shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the State Office of Administrative Hearings and Rules shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the State Office of Administrative Hearings and Rules shall be made available in the shortest feasible time after it is made available to the State Office of Administrative Hearings and Rules.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The State Office of Administrative Hearings and Rules shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the State Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The State Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the State Office of Administrative Hearings and Rules (517) 335-2484.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the State Office of Administrative Hearings and Rules: www.michigan.gov/cis/0,1607,7-154-10576_35738---,00.html

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the State Office of Administrative Hearings and Rules Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Peter Plummer, Executive Director
State Office of Administrative Hearings and Rules

2007 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2007	February 1, 2007
2	February 1, 2007	February 15, 2007
3	February 15, 2007	March 1, 2007
4	March 1, 2007	March 15, 2007
5	March 15, 2007	April 1, 2007
6	April 1, 2007	April 15, 2007
7	April 15, 2007	May 1, 2007
8	May 1, 2007	May 15, 2007
9	May 15, 2007	June 1, 2007
10	June 1, 2007	June 15, 2007
11	June 15, 2007	July 1, 2007
12	July 1, 2007	July 15, 2007
13	July 15, 2007	August 1, 2007
14	August 1, 2007	August 15, 2007
15	August 15, 2007	September 1, 2007
16	September 1, 2007	September 15, 2007
17	September 15, 2007	October 1, 2007
18	October 1, 2007	October 15, 2007
19	October 15, 2007	November 1, 2007
20	November 1, 2007	November 15, 2007
21	November 15, 2007	December 1, 2007
22	December 1, 2007	December 15, 2007
23	December 15, 2007	January 1, 2008
24	January 1, 2008	January 15, 2008

CONTENTS

ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

Department of Environmental Quality

Air Quality Division (SOAHR # 2005-037)

Part 8. Emission Limitations and Prohibitions- Oxides of Nitrogen2-24

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

Department of Labor and Economic Growth

Director's Office (SOAHR # 2007-009)

General Industry Safety Standards – Part 39 Design Safety Standards for Electric
Systems26-26

ENROLLED SENATE AND HOUSE BILLS SIGNED INTO LAW OR VETOED

Table (2007 Session)28-29

MICHIGAN ADMINISTRATIVE CODE TABLE

Table (2007 Session)31-33

CUMULATIVE INDEX

Cumulative Index (2007)34-38

ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

SOAHR 2005-037

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

AIR POLLUTION CONTROL

These rules were filed with Secretary of State on June 25, 2007

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of environmental quality by sections 5503 and 5512 of 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order No. 1995-18, MCL 324.99903)

R 336.1803 is amended and R 336.1802a, R 336.1821, R 336.1822, R 336.1823, R 336.1824, R 336.1825, R 336.1826, R 336.1830, R 336.1831, R 336.1832, R 336.1833 and R 336.1834 are added to the Michigan Administrative Code, as follows:

PART 8. EMISSION LIMITATIONS AND PROHIBITIONS—
OXIDES OF NITROGEN

R 336.1802a Adoption by reference.

Rule 802a. The following documents are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at the cost at the time of adoption of these rules (AQD price). Copies may be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania, 15250 7954, at the cost at the time of adoption of these rules (GPO price), or on the United States government printing office internet web site at <http://www.gpoaccess.gov>:

(a) Title 40 C.F.R., §72.2 definitions under the “Acid Rain Program General Provisions” (2006), AQD price \$72.00; GPO price \$62.00.

(b) Title 40 C.F.R. §72.8, “Retired Units Exemption” (2006), AQD price \$72.00; GPO price \$62.00

(c) Title 40 C.F.R., part 75, “Continuous Emission Monitoring” (2006), AQD price \$72.00; GPO price \$62.00.

(d) Title 40 C.F.R., §96.54, “Compliance” (2006), AQD price \$70.00; GPO price \$60.00.

(e) Title 40 C.F.R., §97.2, 97.102, 97.103, 97.302 and 97.303, definitions under the “Federal Oxides of Nitrogen (NO_x) Budget Trading Program and CAIR NO_x and Sulfur Dioxide (SO₂) Trading Programs” (2006), AQD price \$70.00; GPO price \$60.00.

(f) Title 40 C.F.R., §97.104, “Applicability” (2006), AQD price \$70.00; GPO price \$60.00.

(g) Title 40 C.F.R., §§97.180 to 97.188 and §§97.380 to 97.388, opt-in provisions under the “Federal Oxides of Nitrogen (NO_x) Budget Trading Program and CAIR NO_x and Sulfur Dioxide (SO₂) Trading Programs” (2006), AQD price \$70.00; GPO price \$60.00.

(h) Title 40 C.F.R., §97.304, Applicability (2006), AQD price \$70.00; GPO price \$60.00.

R 336.1803 Definitions.

Rule 803. (1) The provisions of 40 C.F.R. §96.2 are adopted by reference in this rule. The definitions for the oxides of nitrogen budget trading program in 40 C.F.R. §96.2 are applicable to R 336.1802 to R 336.1816. In addition, all of the following definitions apply as indicated, including a modification to the “NO_x budget trading program” definition:

(a) “Electric-generating unit (EGU)” means the following:

(i) For units that commenced operation before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity of more than 25 megawatts and produced electricity for sale.

(ii) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity of more than 25 megawatts and produced electricity for sale.

(iii) For units that commence operation on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity of more than 25 megawatts and produces electricity for sale.

(b) “Large affected unit” means the following:

(i) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale.

(ii) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale.

(iii) For units that commence operation on or after January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and to which either of the following provisions applies:

(A) The unit at no time serves a generator producing electricity for sale.

(B) The unit at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of 25 megawatts or less and has the potential to use not more than 50% of the potential electrical output capacity of the unit.

(c) “Michigan fine grid zone” means the geographical area that includes all of the following counties:

(i) Allegan.

(ii) Barry.

(iii) Bay.

(iv) Berrien.

(v) Branch.

(vi) Calhoun.

(vii) Cass.

(viii) Clinton.

(ix) Eaton.

(x) Genesee.

(xi) Gratiot.

(xii) Hillsdale.

(xiii) Ingham.

(xiv) Ionia.

- (xv) Isabella.
- (xvi) Jackson.
- (xvii) Kalamazoo.
- (xviii) Kent.
- (xix) Lapeer.
- (xx) Lenawee.
- (xxi) Livingston.
- (xxii) Macomb.
- (xxiii) Mecosta.
- (xxiv) Midland.
- (xxv) Monroe.
- (xxvi) Montcalm.
- (xxvii) Muskegon.
- (xxviii) Newaygo.
- (xxix) Oakland.
- (xxx) Oceana.
- (xxxi) Ottawa.
- (xxxii) Saginaw.
- (xxxiii) Saint Clair.
- (xxxiv) Saint Joseph.
- (xxxv) Sanilac.
- (xxxvi) Shiawassee.
- (xxxvii) Tuscola.
- (xxxviii) Vanburen.
- (xxxix) Washtenaw.
- (xxxx) Wayne.

(d) “NO_x budget trading program” means a multi-state nitrogen oxides air pollution control and emission reduction program established pursuant to 40 C.F.R. part 96 and part 97. The provisions of 40 C.F.R. part 96 and part 97 are adopted by reference in subrule (2) of this rule.

(e) “Ozone control period” means the period of May 31, 2004, through September 30, 2004, and the period of May 1 to September 30 each subsequent and prior year. The term “ozone control period” replaces the term “control period.”

(2) For R 336.1803 through R 336.1816, the provisions of 40 C.F.R. part 96 and part 97 (2006) are adopted by reference, except as modified in R 336.1804, R 336.1805, R 336.1808, R 336.1811, R 336.1813, and R 336.1815. Copies may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of the regulations may be obtained from the Department of Environmental Quality, Air Quality Division, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of this rule of \$70.00. A copy may also be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of this rule of \$60.00; or on the United States government printing office internet web site at www.access.gpo.gov.

(3) Definitions under the clean air interstate rule NO_x ozone season and annual trading programs in 40 C.F.R. §97.102 and §97.302 are applicable to R 336.1821 to R 336.1834. In addition, all of the following definitions apply as indicated:

(a) “Biomass” means wood, wood residue, and wood products (for example, trees, tree stumps, tree limbs, bark, lumber, sawdust, sander dust, chips, scraps, slabs, millings, and shavings); animal litter; vegetative agricultural, and silvicultural materials, such as logging residues (slash), nut and grain hulls,

and chaff (for example, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds.

(b) “CAIR” means clean air interstate rule.

(c) “Commence commercial operation” means the following:

(i) For a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.

(ii) For a unit with a date of commencement of operation as defined in this subrule and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(iii) For a unit with a date for commencement of operation as defined in this subrule and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this subrule as appropriate.

(d) Electric generating unit or “EGU” means any of the following:

(i) For the purposes of the CAIR NO_x ozone season trading program; a CAIR NO_x ozone season unit as defined under 40 C.F.R. §97.304,

(ii) Electric generating units required to be in Michigan's NO_x SIP budget trading program that are not already included under 40 C.F.R. §96.304, which are defined as:

(A) For units that commenced operation before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity of more than 25 megawatts and produced electricity for sale.

(B) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity of more than 25 megawatts and produced electricity for sale.

(C) For units that commence operation on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity of more than 25 megawatts and produces electricity for sale.

(iii) For purposes of the CAIR NO_x annual trading program; a CAIR NO_x unit as defined under 40 C.F.R. §97.104.

(e) “Existing EGUs” for allocation purposes under R 336.1821 to R 336.1834, means electric generating units that commenced operations prior to the most recent year of the 5-year period used to calculate the allocations pursuant to these rules.

(f) “Fossil fuel-fired,” means as defined in 40 C.F.R. §97.2 for the purposes of determining applicability for units that are considered either of the following:

(i) EGUS as defined pursuant to R 336.1803(3)(d)(ii).

(ii) Non-EGUs as defined pursuant to R 336.1803(3)(k).

(g) “Fuel types,” for the allocation of allowances under Michigan’s programs only, means solid, liquid and gaseous fuel. The following definitions apply to fuel:

(i) “Solid fuel” includes, but is not limited to coal, biomass, tire-derived fuels and pet coke.

(ii) “Liquid fuel” includes, but is not limited to petroleum-based oils, glycerol, vegetable-based and animal waste-based liquids.

(iii) “Gaseous fuel” includes, but is not limited to coke oven gas, natural gas, propane, coal gas, blast furnace gas, and methane derived from animal wastes.

(h) “Michigan fine grid zone” means the geographical area that includes all of the following counties:

(i) Allegan.

(ii) Barry.

(iii) Bay.

(iv) Berrien.

- (v) Branch.
- (vi) Calhoun.
- (vii) Cass.
- (viii) Clinton.
- (ix) Eaton.
- (x) Genesee.
- (xi) Gratiot.
- (xii) Hillsdale.
- (xiii) Ingham.
- (xiv) Ionia.
- (xv) Isabella.
- (xvi) Jackson.
- (xvii) Kalamazoo.
- (xviii) Kent.
- (xix) Lapeer.
- (xx) Lenawee.
- (xxi) Livingston.
- (xxii) Macomb.
- (xxiii) Mecosta.
- (xxiv) Midland.
- (xxv) Monroe.
- (xxvi) Montcalm.
- (xxvii) Muskegon.
- (xxviii) Newaygo.
- (xxix) Oakland.
- (xxx) Oceana.
- (xxxi) Ottawa.
- (xxxii) Saginaw.
- (xxxiii) Saint Clair.
- (xxxiv) Saint Joseph.
- (xxxv) Sanilac.
- (xxxvi) Shiawassee.
- (xxxvii) Tuscola.
- (xxxviii) Vanburen.
- (xxxix) Washtenaw.
- (xxxx) Wayne.

(i) “New EGUs,” for allocation purposes under R 336.1821 to R 336.1834, means electric generating units that are commencing operation or projected to commence operation on or after January 1 of the most recent year of the 5-year period used to calculate the allocations pursuant to these rules.

(j) “Newly-affected EGUs,” for allocation purposes under R 336.1821 to R 336.1834, means existing EGUs located outside the Michigan fine grid zone or existing EGUs located within the Michigan fine grid zone which were exempt from the federal NO_x budget program. This definition is applicable for the 2009 CAIR NO_x ozone season program only and after that time the newly affected EGUs are considered existing EGUs. This definition excludes the Harbor Beach power plant which was previously included as an EGU in the NO_x SIP Budget trading program and is considered existing for the purposes of CAIR NO_x ozone season program.

(k) “Non-EGUs” means the following units located in Michigan’s fine grid zone:

- (i) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale.
- (ii) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale.
- (iii) For units that commence operation on or after January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and to which either of the following provisions applies:
 - (A) The unit at no time serves a generator producing electricity for sale.
 - (B) The unit at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of 25 megawatts or less and has the potential to use not more than 50% of the potential electrical output capacity of the unit.
- (l) "Ozone Season" means May 1 to September 30 of each calendar year.
- (m) "Renewable energy source," for allocation purposes under R 336.1821 to R 336.1826, means a source, located in Michigan, that generates electricity by solar, wind, geothermal, or hydroelectric processes, excluding nuclear, that has commenced operation or is projected to commence operation on or after January 1 of the most recent year of the 5-year period used to calculate the allocations pursuant to these rules, which meets all of the following:
 - (i) Serves a generator at 25 megawatts or greater of electrical output.
 - (ii) Is not subject to R 336.1801(4)(a) or covered by any other definitions in this rule.
 - (iii) Captures energy from on-going natural processes.
 - (iv) Is considered a non-emitting, having zero emissions, source.
- (n) "Renewable energy projects," for allocation purposes under R 336.1821 to R 336.1826, means renewable energy sources, located in Michigan and located within the same geographic area that when added together equal a generator greater than 25 megawatts of electrical output.
- (o) "Unit" means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system, pursuant to EGUs as defined under R 336.1803(3)(d)(ii) and non-EGUs as defined under R 336.1803(3)(k).

R 336.1821 CAIR NO_x ozone season and annual trading programs; applicability determinations.

Rule 821. (1) This rule establishes Michigan's CAIR ozone season and annual emission budgets and trading programs for all of the following units:

- (a) CAIR NO_x units as defined pursuant to 40 C.F.R. §97.104, adopted by reference in R 336.1802a.
- (b) CAIR NO_x ozone season units as defined pursuant to 40 C.F.R. §97.304, adopted by reference in R 336.1802a.
- (c) All units required to be in the state's NO_x SIP call trading program that are not already included under 40 C.F.R. §97.304 and are defined in R 336.1803(3)(d)(ii) and (k).
- (d) For purposes of allocating allowances under R 336.1821 to R 336.1826, the following units which are not addressed in subparagraphs (a), (b) and (c) of this subrule are CAIR NO_x ozone season units:
 - (i) Renewable energy sources.
 - (ii) Renewable energy projects.
- (2) An EGU located in Michigan and subject to the requirements pursuant to R 336.1821(a), (b) or (c) shall apply for and receive an annual or ozone season CAIR NO_x permit. In addition, non-EGUs as defined in R 336.1803(3)(k) shall apply for and receive an ozone season CAIR NO_x permit. This permit shall be administered under R 336.1214 and shall be incorporated into the source's renewable operating permit as an attachment. A federally enforceable NO_x budget permit issued under the federal NO_x

budget program pursuant to R 336.1808 shall remain in effect until the CAIR NO_x ozone season permit has been approved by the department.

(3) The fuel type adjusted allocations for each existing EGU shall be determined by multiplying the appropriate NO_x emission rate and heat input as determined in accordance with R 336.1822 and R 336.1830 with an appropriate fuel adjustment factor coefficient as follows:

(a) For a solid fuel-fired EGU, the allocation calculations shall be adjusted by multiplying the allocation values by 100%, i.e. 1.0.

(b) For a liquid fuel-fired EGU, the allocation calculations shall be adjusted by multiplying the allocation values by 60%, i.e. 0.60.

(c) For a gaseous fuel-fired EGU, the allocation calculations shall be adjusted by multiplying the allocation values by 40%, i.e. 0.40.

(d) For a multi-fueled EGU, the allocation adjustment calculation shall be a weighted average based on the percentage heat input from each type of fuel burned in the unit, unless the source can demonstrate that certain types of fuel used in the process provided less than 10% of the annual heat input. If so, then the allocation adjustment is calculated based on only those fuel types which contributed 10% or more of the annual heat input.

(4) The owner or operator of any CAIR NO_x ozone season or annual unit shall submit all of the following data within 30 days upon request by the department:

(a) A unit's ozone season and annual heat input values or megawatt energy produced, which shall be the same data reported in accordance with 40 C.F.R. part 75 to the extent the unit is subject to 40 C.F.R. part 75 for the period involved.

(b) A unit's total tons of oxides of nitrogen emissions during specified calendar years or ozone seasons as determined under 40 C.F.R. part 75, adopted by reference in R 336.1802a.

(5) Effective January 1, 2009, the provisions of R 336.1802, R 336.1803(1) and R 336.1803(2), R 336.1804, R 336.1805, R 336.1806, R 336.1807, R 336.1808, R 336.1809, R 336.1810, R 336.1811, R 336.1812, R 336.1813, R 336.1814, R 336.1815, and R 336.1816 shall not apply to the control period beginning in 2009 or any control period thereafter.

(6) Pursuant to the provisions in 40 C.F.R. §96.54 and for the 2009 control period only, if the U.S. environmental protection agency determines that there were excess emissions during the 2008 control period, deductions for excessive emission penalties shall be taken from the 2009 CAIR NO_x ozone season allowances. Title 40 C.F.R. §96.54 is adopted by reference in R 336.1802a.

(7) Pursuant to any NO_x SIP unused set-aside allowances through 2008 that are accumulated within the state account, the department shall allocate these allowances according to R 336.1823.

R 336.1822 CAIR NO_x ozone season trading program; allowance allocations.

Rule 822. (1) The CAIR NO_x ozone season trading program budget allocated by the department under subrule (3) of this rule for the CAIR NO_x ozone season control periods to the EGUs, non-EGUs, and renewable energy sources shall annually equal the total number of tons of oxides of nitrogen emissions as indicated in the following manner:

(a) The total CAIR NO_x ozone season budget for the ozone season time period of 2010 to 2014 is 31,180 tons. These allocations shall be distributed as follows:

(i) The CAIR NO_x ozone season budget available to existing and newly-affected EGUs. The following applies:

(A) For 2010 and 2011 ozone season control periods equals 28,321 tons.

(B) For 2012 to 2014 ozone season control periods equals 28,021 tons.

(ii) The CAIR NO_x ozone season budget available to existing non-EGUs for the 2010 to 2014 ozone season control periods is 1,309 tons.

- (iii) The CAIR NO_x ozone season budget available to new non-EGUs and EGUs. The following applies:
- (A) For 2010 and 2011 ozone season control periods is 700 tons.
 - (B) For 2012 to 2014 ozone season control periods is 1,000 tons.
- (iv) The CAIR NO_x ozone season budget available to renewable energy sources and projects in the 2010 to 2014 ozone season control periods is 200 tons.
- (v) The CAIR NO_x ozone season budget available to all existing EGUs and non-EGUs that have submitted an acceptable demonstration of a hardship to the department, in the 2010 to 2014 ozone season control periods is 650 tons.
- (b) The total CAIR NO_x ozone season budget for the ozone season time period of 2015 and thereafter is 26,351 tons. These allocations shall be distributed as follows:
- (i) The CAIR NO_x ozone season budget available to existing EGUs in the 2015 and thereafter ozone season control periods is 22,792 tons.
 - (ii) The CAIR NO_x ozone season budget available to existing ozone season non-EGUs for the 2015 and thereafter ozone season control periods is 1,309 tons.
 - (iii) The CAIR NO_x ozone season budget available to new non-EGUs and EGUs in the 2015 and thereafter ozone season control periods is 1,400 tons.
 - (iv) The CAIR NO_x ozone season budget available to renewable energy sources and projects in the 2015 and thereafter ozone season control periods is 200 tons.
 - (v) The CAIR NO_x ozone season budget available to all existing EGUs and non-EGUs that have submitted an acceptable demonstration of hardship to the department, in the 2015 and thereafter ozone season control periods is 650 tons.
- (2) CAIR NO_x allowances for the 2009 ozone season control period shall be the same allowances as were allocated under the NO_x budget trading program. For newly-affected EGUs which were not subject to the federal NO_x budget program, these units are eligible to apply for allowances from the CAIR NO_x ozone season new source set-aside pool for the 2009 ozone season, pursuant to R 336.1823.
- (3) The department shall allocate CAIR NO_x ozone season allowances to existing EGUs and non-EGU ozone season units for calendar years 2010 and thereafter according to the following schedule:
- (a) A 3-year allocation that is 3 years in advance of the 2010 ozone season and 4 years in advance of each subsequent ozone season control period. The 3-year allocation shall be as follows:
 - (i) By 60 days after the effective date of this rule or April 30, 2007, whichever is earlier, the department shall submit to the U.S. environmental protection agency the CAIR NO_x ozone season allowance allocations, under this subrule, for the ozone season control periods in 2010 and 2011.
 - (ii) By October 31, 2008, the department shall submit to the U.S. environmental protection agency the CAIR NO_x ozone season allowance allocations, under this subrule, for the ozone season control periods in 2012, 2013, and 2014.
 - (iii) By October 31, 2011, and thereafter each October 31 of the year that is 3 years after the last year of allocation submittal, the department shall submit to the U.S. environmental protection agency the CAIR NO_x ozone season allowance allocations as indicated under this subrule.
- (4) For the CAIR NO_x ozone season control periods under subrule (3) of this rule, the department shall allocate allowances to existing EGU and non-EGU ozone season units that commenced operation before January 1 of the most recent year of the 5-year period used to calculate heat input as follows:
- (a) The department shall allocate allowances to each existing EGU ozone season unit as follows:
 - (i) During calendar years 2010 to 2014 as follows:
 - (A) Units with an allowable NO_x emission rate equal to or greater than the CAIR target budget rate of 0.15 pounds per million Btu, and units with no applicable NO_x emission rate shall receive an initial unadjusted allocation of allowances in an amount equaling 0.15 pounds per million Btu multiplied by the appropriate fuel adjustment factor and multiplied by the heat input as determined under subrule (6)

of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(B) Units with an allowable NOx emission rate less than the CAIR target budget rate of 0.15 pounds per million Btu shall receive an initial unadjusted allocation of allowances determined by calculating the arithmetic average of the CAIR target emission rate multiplied by the appropriate fuel adjustment factor plus the unit's allowable emission rate, which is then multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

$$Allocation = \left[\frac{\left\{ \frac{(CTER \times FAF) + AER}{2} \right\} \times HI}{2000lb/ton} \right]$$

Where:

Allocation = The initial unadjusted NOx allowance allocation, in tons.

CTER = The CAIR target emission rate for 2009 to 2014 of 0.15 pounds per mm Btu.

FAF = Fuel adjustment factor as defined in R 336.1821.

AER = The unit's allowable emission rate.

HI = Average of the unit's 2 highest heat inputs in mm Btu for the appropriate 5 control periods.

(ii) During calendar years 2015 and thereafter as follows:

(A) Units with an allowable emission rate equal to or greater than the CAIR target budget rate of 0.125 pounds per million Btu shall receive allowances in an amount equaling 0.125 pounds per million Btu multiplied by the appropriate fuel adjustment factor and multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(B) Units with an allowable emission rate less than the CAIR target budget rate of 0.125 pounds per million Btu shall receive allowances determined by calculating the arithmetic average of the CAIR target emission rate multiplied by the appropriate fuel adjustment factor plus the unit's allowable emission rate, which is then multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

$$Allocation = \left[\frac{\left\{ \frac{(CTER \times FAF) + AER}{2} \right\} \times HI}{2000lb/ton} \right]$$

Where:

Allocation = The initial unadjusted NOx allowance allocation, in tons.

CTER = The CAIR target emission rate for 2015 and thereafter of 0.125 pounds per mm Btu.

FAF = Fuel adjustment factor as defined in R 336.1821.

AER = The unit's allowable emission rate.

HI = Average of the unit's 2 highest heat inputs in mm Btu for the appropriate 5 control periods.

(b) The department shall allocate allowances to each existing non-EGU ozone season unit for calendar years 2010 to 2015 and thereafter in an amount equaling 0.17 pounds per million Btu or the allowable emission rate, whichever is more stringent, multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(5) If the initial total number of CAIR NO_x ozone season budget allowances allocated to either all existing EGU or all existing non-EGU ozone season units for the years under subrule (4) of this rule does not equal the budgeted tons for such units as specified in subrule (1) of this rule, then the department shall adjust up or down the total number of CAIR NO_x ozone season budget allowances allocated to each existing EGU or non-EGU, as appropriate, so that the total number of CAIR NO_x ozone season budget allowances allocated to the entire group of EGUs or non-EGUs equals the appropriate values in subrule (1) of this rule. The adjustment shall be made by multiplying each unit's unadjusted initial allocation by a correction factor determined by dividing the appropriate existing EGU or non-EGU total budget tons from subrule (1) of this rule by the sum of all existing EGU or non-EGU units' initial unadjusted allocations, and rounding to the nearest whole number, as appropriate.

(6) The heat input, in million Btu's, used for calculating oxides of nitrogen allowance allocations for each subject unit under this rule shall be the unit's average of the 2 highest heat inputs for the ozone season control period in the 5 years immediately preceding the year in which the department is required to submit the oxide of nitrogen allocations. If the unit operated less than 2 full ozone seasons of the 5-year time period, then the unit's single highest ozone season heat input shall be used.

R 336.1823 New EGUs, new non-EGUs, and newly-affected EGUs under CAIR NO_x ozone season trading program; allowance allocations.

rule 823. (1) [0]The department shall establish a set-aside pool for each CAIR NO_x ozone season control allocation year for new EGUs and non-EGUs. This set-aside pool shall be allocated on a yearly basis as follows:

(a) For 2009, a total of 1,385 tons of CAIR NO_x ozone season allowances, which have been carried over from the federal NO_x budget program, for any new and newly-affected EGUs or new non-EGUs.

(b) For years 2010 and 2011, a total of 700 tons of CAIR NO_x ozone season allowances for any new EGUs or new non-EGUs.

(c) For years 2012 to 2014 ozone season control periods, a total of 1,000 tons of CAIR NO_x ozone season allowances for any new EGUs or new non-EGUs.

(d) For years 2015 and thereafter, a total of 1,400 tons of CAIR NO_x ozone season allowances for any new EGUs or new non-EGUs.

(2) The CAIR authorized account representative of a newly-affected CAIR NO_x ozone season EGU under this rule may submit to the department a request, in a format specified by the department, to receive CAIR NO_x ozone season allowances for the 2009 CAIR NO_x ozone season control period. All of the following apply:

(a) The oxides of nitrogen allowance allocation request shall be submitted before March 1 of the 2009 ozone season control period.

(b) The CAIR authorized account representative of any newly-affected EGU may request 2009 CAIR NO_x ozone season allowances, based on an amount equaling 0.15 pounds per million Btu multiplied by the unit's ozone season heat input, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(c) The heat input, in million Btu's, used for calculating oxides of nitrogen allowance allocations for each subject unit under this rule shall be the unit's average of the 2 highest heat inputs for the ozone season control period in the 5 years immediately preceding the year in which the department is required to submit the oxide of nitrogen allocations. If the unit operated less than 2 full ozone seasons of the 5-year time period, then the unit's single highest heat input shall be used.

(3) The CAIR authorized account representative of a new CAIR NOx ozone season non-EGU under this rule may submit to the department a request, in a format specified by the department, to receive CAIR NOx ozone season allowances starting with the ozone season control period during which the CAIR NOx ozone season unit commenced or is projected to commence operation and ending with the control period preceding the control period for which it shall receive an allocation under R 336.1822. Both of the following apply:

(a) The CAIR NOx ozone season allowance allocation request shall be submitted before March 1 of the year of the first ozone control period for which the oxides of nitrogen allowance allocation is requested and after the date on which the department issues a permit to install for the non-EGU, if required, and each following year by March 1.

(b) The CAIR authorized account representative of any new non-EGU may request CAIR NOx ozone season allowances, based on an amount equaling 0.17 pounds per million Btu or the allowable emission rate, whichever is more stringent, multiplied by the nameplate design heat input rate for the unit, in million Btu's per hour, multiplied by the predicted hours of operation for the control period, divided by 2,000 pounds per ton and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(4) The CAIR authorized account representative of a new EGU CAIR NOx ozone season unit under this rule may submit to the department a written request, in a format specified by the department, to receive CAIR NOx ozone season allowances, starting with the ozone season control period during which the CAIR NOx ozone season unit commenced or is projected to commence operation and ending with the control period preceding the control period for which it shall receive an allocation under R 336.1822. All of the following apply:

(a) The CAIR NOx ozone season allowance allocation request shall be submitted before March 1 of the year of the first ozone control period for which the oxides of nitrogen allowance allocation is requested and after the date on which the department issues a permit to install for the EGU, if required, and each following year by March 1.

(b) The allocation methodology used for the first ozone season for which each new EGU requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NOx}}{\text{MWh}} \times \frac{\text{Size of unit in MW} \times \text{hours of operation}}{2000 \text{ lb / ton}} \times 70\%$$

Where:

Allocation =	The unadjusted NOx allowance allocation, in tons.
1.0 lb NOx/MWh =	The factor for allocating NOx allowances based on gross electric generation.
Size of the unit =	The nameplate capacity, as defined in the CAIR NOx program of the EGU in megawatts.
Hours of Operation =	Predicted hours of operation per control period.
MWh =	Megawatt hours.

(c) The allocation methodology used for each consecutive ozone season for which each new EGU requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NOx}}{\text{MWh}} \times \frac{\text{Actual Megawatt hours}}{2000 \text{ lb / ton}}$$

Where:

Allocation =	The unadjusted NOx allowance allocation, in tons.
1.0 lb NOx/MWh =	The factor for allocating NOx allowances based on gross electric generation.
Actual megawatt hours =	The actual megawatt hours of electricity generated during the control period immediately preceding the request.
MWh =	Megawatt hours.

(d) When the new EGU has been placed in the existing pool, the calculation methods under R 336.1822 apply.

(5) The department shall review and allocate oxides of nitrogen allowances pursuant to each allocation request on a pro rata basis as follows:

(a) Upon receipt of the CAIR NOx unit's allowance allocation request, the department shall determine whether allowances are available and shall make necessary adjustments to the request to ensure that for the CAIR NOx ozone season control period, the number of allowances specified are consistent with the requirements of subrule (1) of this rule.

(b) If the allocation set-aside pool for the CAIR NOx ozone season control period for which CAIR NOx ozone season allowances are requested has an amount greater than or equal to the number requested, as adjusted under subdivision (a) of this subrule, then the department shall allocate the amount of the CAIR NOx ozone season allowances requested.

(c) If the allocation set-aside pool for the CAIR NOx ozone season control period for which CAIR NOx ozone season allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, as adjusted under subdivision (a) of this subrule, then the department shall proportionately reduce the number of CAIR NOx ozone season allowances allocated to each CAIR NOx ozone season unit so that the total number of CAIR NOx ozone season allowances allocated are equal to the amounts referenced in subrule (1)(a), (b) or (c) of this rule.

(6) CAIR NOx ozone season allowances not allocated or requested that remain in the new source set-aside pool for any allocation year shall be re-allocated to the existing EGU and non-EGU source pools, using the allocation methodologies as outlined in R 336.1822 and based on a ratio of the number of allowances remaining in the pool and the number of allowances in the EGU's and non-EGU's budget.

(7) Not later than July 31 of the year for which the allowances are allocated, the department shall submit to the U.S. environmental protection agency the CAIR NOx ozone season allowance allocations, as determined under this rule.

R 336.1824 CAIR NOx ozone season trading program; hardship set-aside.

[0]Rule 824. (1) After the provisions of R 336.1822 have been followed, the authorized account representative may pursue a request for hardship allowances. These requests must be submitted not later than 30 days prior to the deadline for department submittals to the U.S. environmental protection agency as described in R 336.1822.

(2) For existing EGUs and non-EGUs subject to the CAIR NOx ozone season budget, the department shall allocate CAIR NOx hardship allowances under the following procedures:

(a) The department shall establish a hardship allocation set-aside pool for each CAIR NOx ozone season allocation year starting in 2010. This hardship set-aside pool shall be allocated on an ozone season basis and contains a total of 650 tons per allocation year of CAIR NOx ozone season allowances, for any qualifying EGUs or non-EGUs.

(b) Hardship allowances may be allocated to an EGU or non-EGU, if the requesting authorized account representative demonstrates both of the following:

(i) The owner or operator of the EGU or a non-EGU has less than 250 employees within its company or its electric generating division or department.

(ii) The controls required for the EGU or non-EGU under this part result in excessive or prohibitive costs for compliance, pursuant to the procedures in subrule (3) of this rule.

(c) The CAIR authorized account representative of a CAIR NO_x ozone season unit under this rule may submit to the department a written request, in a format specified by the department, to receive CAIR NO_x ozone season hardship allowances. The authorized account representative shall submit the request for the amount of estimated hardship allowances they need, using historical ozone season heat input utilization levels multiplied by historical oxides of nitrogen emission rates as follows:

(i) Historical heat input utilization levels shall be based on the unit's average of the 2 highest heat input utilization levels for the ozone season in the 5 years immediately preceding the year in which the department is required to submit the oxides of nitrogen allocations to the U.S. environmental protection agency. If the unit operated less than 2 full ozone seasons during the 5-year time period, then the unit's single highest ozone season heat input level shall be used.

(ii) Historic oxides of nitrogen rates shall be based on the oxides of nitrogen rate reported by the authorized account representative in its 40 C.F.R. part 75 reports to the U.S. environmental protection agency in the calendar year immediately preceding the year in which the department is required to submit the oxides of nitrogen allocation.

(iii) Units receiving hardship allowances shall receive a 3-year allocation that is 3 years in advance of the 2010 ozone season. The 3-year allocation shall be the same as provided in R 336.1822(3).

(d) The department shall allocate the allowances from the hardship set-aside pool based on the requests received as follows:

(i) If the allocation hardship set-aside pool for the CAIR NO_x ozone season control period for which CAIR NO_x ozone season allowances are requested has an amount of oxides of nitrogen allowances greater than or equal to the number requested, then the department shall allocate the amount of the CAIR NO_x ozone season allowances requested.

(ii) If the allocation hardship set-aside pool for the CAIR NO_x ozone season control period for which CAIR NO_x ozone season allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, then the department shall proportionately reduce the number of CAIR NO_x ozone season allowances allocated to each CAIR NO_x ozone season unit so that the total number of CAIR NO_x ozone season allowances allocated are equal to the amounts in R 336.1822(1)(a)(v) or (b)(v).

(3) The department shall allocate CAIR NO_x ozone season hardship allowances to existing EGUs and existing non-EGUs which have submitted an engineering analysis as described in the following procedures:

(a) The authorized account representative shall demonstrate to the department that the control level required pursuant to this rule results in excessive or prohibitive cost for compliance. The demonstration shall include all of the following:

(i) An engineering study analyzing all control options that are technically available for the unit, including control options that would achieve a level of control meeting, at a minimum, the levels as specified in subparagraphs (A), (B), and (C) of this paragraph. Sources that previously submitted an engineering analysis and received hardship allowances pursuant to R 336.1810(4)(f) for the oxides of nitrogen budget program may submit written updates to their previous plan.

(A) A NO_x emission rate of 0.15 pound per million Btu for EGUs during the 2010 through 2014 time period.

(B) A NO_x emission rate of 0.125 pound per million Btu for EGUs from 2015 and beyond.

(C) A NO_x emission rate of 0.17 pound per million Btu for non-EGUs.

(ii) The annualized cost associated with each control option. An annualized cost of more than \$2,400 per ton of oxide of nitrogen reduced shall generally be considered to be an excessive cost for compliance with this rule.

(iii) Other considerations that contribute to prohibitive cost of compliance.

(b) For a source to remain eligible for hardship allowances under this rule after the initial 3-year allocation period, ending on September 30, 2011, the state may require a revised engineering analysis and demonstration as referenced in subrule (3)(a) of this rule, at a minimum of once every 3 years.

R 336.1825 CAIR NO_x ozone season trading program; renewable set-aside.

[0]Rule 825. (1) The department shall establish a renewable allocation set-aside pool for each CAIR NO_x ozone season control period for applicable units starting in 2010. This renewable set-aside pool shall be allocated on a yearly basis and contain a total of 200 tons of oxides of nitrogen allowances per allocation year.

(2) An authorized account representative of a renewable energy source or renewable energy project, as defined under R 336.1803(3), may request a CAIR NO_x ozone season allowance allocation under this rule.

(3) Once an authorized account representative of a renewable energy source or renewable energy project has requested allowances from the CAIR NO_x ozone season budget, the department shall allocate CAIR NO_x ozone season renewable allowances under the following procedures:[0]

(a) The oxides of nitrogen allowance allocation request shall be submitted before March 1 of the year of the first ozone control period for which the oxides of nitrogen allowance allocation is requested and after the date on which the department issues a permit to install for the unit, if required, and each following year by March 1.

(b) The allocation methodology used for the first ozone season for which each renewable energy source or renewable energy project requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NO}_x}{\text{MWh}} \times \frac{\text{Size of unit in MW} \times \text{hours of operation}}{2000 \text{ lb / ton}} \times 70\%$$

Where:

Allocation =	The unadjusted NO _x allowance allocation, in tons.
1.0 lb NO _x /MWh =	The factor for allocating NO _x allowances based on gross electric generation.
Size of the unit =	The nameplate capacity, as defined in the CAIR NO _x program, of the renewable energy source or renewable energy project in megawatts.
Hours of Operation =	Predicted hours of operation per control period.
MWh =	Megawatt hours.

(c) The allocation methodology used for the each consecutive ozone season for which the renewable energy source or renewable energy project requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NO}_x}{\text{MWh}} \times \frac{\text{Actual Megawatt hours}}{2000 \text{ lb / ton}}$$

Where:

Allocation =	The unadjusted NO _x allowance allocation, in tons.
1.0 lb NO _x /MWh =	The factor for allocating NO _x allowances based on electric generation.
Actual megawatt hours =	The actual megawatt hours of electricity generated during the control period immediately preceding the request.
MWh =	Megawatt hours.

(4) The renewable energy source or renewable energy project's eligibility for allowances shall begin not sooner than the calendar year 2005.

(5) An individual renewable energy source alone or as part of a renewable energy project may only receive allowances for 3 consecutive ozone seasons.

(6) CAIR NO_x ozone season allowances not allocated or requested that remain in the renewable allocation set-aside pool for any allocation year shall be re-allocated to the existing EGU and non-EGU source pools, using the allocation methodologies as outlined in Rule 822 and based on a ratio of the number of allowances remaining in the pool and the number of allowances in the EGU's and non-EGU's budget.

(7) If the renewable allocation set-aside pool for the CAIR NO_x ozone season control period for which CAIR NO_x ozone season allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, then the department shall proportionately reduce the number of CAIR NO_x ozone season allowances allocated to each CAIR NO_x ozone season unit requesting such allowances, so that the total number of CAIR NO_x ozone season allowances allocated are equal to the amounts in R 336.1822(1)(a)(iv) or (b)(iv).

R 336.1826 CAIR NO_x ozone season trading program; opt-in provisions.

Rule 826. The opt-in provisions in 40 C.F.R. §§97.380 to 97.388 are adopted by reference in R 336.1802a and are applicable to this rule.

R 336.1830 CAIR NO_x annual trading program; allowance allocations.

Rule 830. (1) The CAIR NO_x annual trading program budget allocated by the department for the CAIR NO_x annual control periods shall annually equal the total number of tons of oxides of nitrogen emissions as follows and apportioned to the CAIR NO_x EGUs, as determined by the procedures in this rule. These allocations shall be distributed in the following manner:

(a) The total CAIR NO_x annual budget for the annual control periods of 2009 to 2014 is 65,304 tons. These allocations shall be distributed in the following manner:

(i) The CAIR NO_x annual budget available to existing EGUs as follows:

(A) For the 2009 through 2011 annual control periods is 63,104.

(B) For the 2012 through 2014 annual control periods is 62,704.

(ii) The CAIR NO_x annual budget available to new EGUs as follows:

(A) For the 2009 through 2011 annual control periods is 1,000 tons.

(B) For the 2012 through 2014 annual control periods is 1,400 tons.

(iii) The CAIR NO_x annual budget available to all existing EGUs that have submitted an acceptable demonstration of a hardship to the department, in the 2009 to 2014 annual control periods is 1,200 tons.

(b) The total CAIR NO_x annual budget for the annual control periods of 2015 and thereafter is 54,420 tons. These allocations shall be distributed as follows:

(i) The CAIR NO_x annual budget available for existing EGUs in the 2015 and thereafter annual control periods is 51,820 tons.

(ii) The CAIR NO_x annual budget available for new EGUs in the 2015 and thereafter annual control periods is 1,400 tons.

(iii) The CAIR NOx annual budget available to all existing EGUs that have submitted an acceptable demonstration of a hardship to the department, in the 2015 and thereafter annual control periods is 1,200 tons.

(2) The department shall allocate CAIR NOx annual budget allowances to existing EGUs. A 3-year allocation is 2 and 3 years in advance of the 2009 and 2010 annual control period, respectively, and 4 years in advance of each subsequent annual control period. The 3-year allocation shall be as follows:

(a) By 60 days after the effective date of this rule or April 30, 2007, whichever is earlier, the department shall submit to the U.S. environmental protection agency the CAIR NOx annual allowance allocations, under subrule (3) of this rule, for the annual control periods in 2009, 2010, and 2011.

(b) By October 31, 2008, the department shall submit to the U.S. environmental protection agency the CAIR NOx annual allowance allocations, under subrule (3) of this rule, for the annual control periods in 2012, 2013, and 2014.

(c) By October 31, 2011, and thereafter each October 31 of the year that is 3 years after the last year of allocation submittal, the department shall submit to the U.S. environmental protection agency the CAIR NOx annual allowance allocations as indicated under subrule (3) of this rule.

(3) For the CAIR NOx annual control periods under subrules (1)(a) and (b) of this rule, the department shall allocate allowances to existing EGU units that commenced operation before January 1 of the most recent year of the 5-year period used to calculate heat input. The department shall allocate the following allowances to each existing EGU:

(a) During calendar years 2009 to 2014:

(i) Units with an allowable NOx emission rate equal to or greater than the CAIR target budget rate of 0.15 pounds per million Btu shall receive an initial unadjusted allocation of allowances in an amount equaling 0.15 pounds per million Btu multiplied by the appropriate fuel adjustment factor and multiplied by the heat input as determined under subrule (4) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(ii) Units with an allowable emission rate less than the CAIR target budget rate of 0.15 pounds per million Btu shall receive allowances determined by calculating the arithmetic average of the CAIR target emission rate multiplied by the appropriate fuel adjustment factor plus the unit's allowable emission rate, which is then multiplied by the heat input as determined under subrule (4) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

$$Allocation = \left[\frac{\left\{ \frac{(CTER \times FAF) + AER}{2} \right\} \times HI}{2000 \text{ lb / ton}} \right]$$

Where:

Allocation = The unadjusted NOx allowance allocation, in tons.

CTER = The CAIR target emission rate for 2009 through 2014.

FAF = Fuel adjustment factor as defined in R 336.1821.

AER = The unit's allowable emission rate of 0.15 pounds per mm Btu.

HI = Average of the unit's 2 highest heat inputs in mm Btu for the appropriate 5 control periods.

(b) During calendar years 2015 and thereafter, the following apply:

(i) Units with an allowable NOx emission rate equal to or greater than the CAIR target budget rate of 0.125 pounds per million Btu shall receive an initial unadjusted allocation of allowances in an amount

equaling 0.125 pounds per million Btu multiplied by the appropriate fuel adjustment factor and multiplied by the heat input as determined under subrule (4) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(ii) Units with an allowable emission rate less than the CAIR target budget rate of 0.125 pounds per million Btu shall receive allowances determined by calculating the arithmetic average of the CAIR target emission rate multiplied by the appropriate fuel adjustment factor plus the unit's allowable emission rate, which is then multiplied by the heat input as determined under subrule (4) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

$$Allocation = \left[\frac{\left\{ \frac{(CTER \times FAF) + AER}{2} \right\} \times HI}{2000 \text{ lb / ton}} \right]$$

Where:

Allocation = The unadjusted NOx allowance allocation, in tons.
 CTER = The CAIR target emission rate for 2015 and thereafter.
 FAF = Fuel adjustment factor as defined in R 336.1821.
 AER = The unit's allowable emission rate of 0.125 pounds per mm Btu.
 HI = Average of the unit's 2 highest heat inputs in mm Btu for the appropriate 5 control periods.

(4) The heat input, in million Btu's, used for calculating oxides of nitrogen allowance allocations for each subject unit under this rule shall be the unit's average of the 2 highest heat inputs for the annual control period in the 5 years immediately preceding the year in which the department is required to submit the oxide of nitrogen allocations. If the unit operated less than 2 years of the 5-year time period, then the unit's single highest heat input shall be used.

(5) If the initial total number of CAIR NOx annual budget allowances allocated to all existing EGUs for the years under subrule (3) of this rule does not equal the budgeted tons for such units as specified in subrule (1) of this rule, then the department shall adjust up or down the total number of CAIR NOx annual budget allowances allocated to each existing EGU so that the total number of CAIR NOx annual budget allowances allocated to the entire group of EGUs equals the appropriate value in subrule (1) of this rule. The adjustment shall be made by multiplying each unit's unadjusted initial allocation by a correction factor determined by dividing the appropriate existing EGU total annual budget tons from subrule (1) of this rule by the sum of all existing EGU's initial unadjusted allocations, and rounding to the nearest whole ton, as appropriate.

[0]R 336.1831 New EGUs under CAIR NOx annual trading program; allowance allocations.

rule 831. (1) [0]The department shall establish a set-aside pool for each CAIR NOx annual control allocation year. This set-aside pool shall be allocated on a yearly basis as follows:

(a) For years 2009 to 2011, a total of 1,000 tons of CAIR NOx annual budget allowances available for new EGUs.

(b) For years 2012 and thereafter, a total of 1,400 tons of CAIR NOx annual budget allowances available for new EGUs.

(2) The CAIR authorized account representative of a new EGU under this rule may submit to the department a written request, in a format specified by the department, to receive CAIR NOx annual allowances, starting with the annual control period during which the EGU commenced or is projected to

commence operation and ending with the control period preceding the control period for which it shall receive an allocation under R 336.1830.

(a) The oxides of nitrogen allowance allocation request shall be submitted before September 1 of the year of the first annual control period for which the allowance allocation is requested and after the date on which the department issues a permit to install for the new EGU, if required, and each following year by September 1.

(b) The allocation methodology used for the first annual control period for which each new EGU requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NOx}}{\text{MWh}} \times \frac{\text{Size of unit in MW} \times \text{hours of operation}}{2000 \text{ lb / ton}} \times 70\%$$

Where:

Allocation =	The unadjusted NOx allowance allocation, in tons.
1.0 lb NOx/MWh =	The factor for allocating NOx allowances based on gross electric generation.
Size of the unit =	The nameplate capacity, as defined in the CAIR NOx program, of the EGU in megawatts.
Hours of operation =	Predicted hours of operation per control period.
MWh =	Megawatt hours.

(c) The allocation methodology used for each consecutive annual control period for which each new EGU requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NOx}}{\text{MWh}} \times \frac{\text{Actual Megawatt hours}}{2000 \text{ lb / ton}}$$

Where:

Allocation =	The unadjusted NOx allowance allocation, in tons.
1.0 lb NOx/MWh =	The factor for allocating NOx allowances based on gross electric generation.
Actual megawatt hours =	The actual megawatt hours of electricity generated during the control period immediately preceding the request.
MWh =	Megawatt hours.

(d) Once the new EGU has been placed in the existing pool, the calculation methods under R 336.1830 apply.

(3) The department shall review and allocate oxides of nitrogen allowances pursuant to each allocation request on a pro rata basis as follows:

(a) Upon receipt of the CAIR NOx unit's allowance allocation request, the department shall determine whether allowances are available and shall make necessary adjustments to the request to ensure that for the CAIR NOx annual control period, the numbers of allowances specified are consistent with the requirements of subrule (1) of this rule.

(b) If the allocation set-aside pool for the CAIR NOx annual control period for which CAIR NOx annual budget allowances are requested has an amount greater than or equal to the number requested, as adjusted under subdivision (a) of this subrule, then the department shall allocate the amount of the CAIR NOx annual budget allowances requested.

(c) If the allocation set-aside pool for the CAIR NOx annual control period for which CAIR NOx annual budget allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, as adjusted under subdivision (a) of this subrule, then the department shall proportionately reduce the number of CAIR NOx annual budget allowances allocated to each CAIR NOx unit so that the total number of CAIR NOx annual budget allowances allocated are equal to the amounts referenced in subrule (1)(a) or (b) of this rule.

(4) CAIR NOx annual allowances not allocated or requested that remain in the new source set-aside pool for any allocation year shall be re-allocated to the existing EGU source pool, using the allocation methodologies as outlined in R 336.1830.

R 336.1832 CAIR NOx annual trading program; hardship set-aside.

[0]Rule 832. (1) After the provisions of R 336.1830 have been followed, an owner or operator may pursue a request for hardship allowances. These requests must be submitted not later than 30 days prior to the deadline for department submittals to the U.S. environmental protection agency as described in R 336.1830.

(2) For existing EGUs subject to the CAIR NOx annual budget, the department shall allocate CAIR NOx hardship allowances under the following procedures:[0]

(a) The department shall establish a hardship allocation set-aside pool for each CAIR NOx annual allocation year for existing EGUs. This hardship set-aside pool shall be allocated on a yearly basis and contains 1,200 tons of CAIR NOx annual allowances per allocation year.

(b) Hardship allowances may be allocated to an EGU if the requesting authorized account representative demonstrates both of the following:

(i) The owner or operator of the EGU has less than 250 employees within its company or its electric generating division or department.

(ii) The controls required for the EGU under this part result in excessive or prohibitive costs for compliance, pursuant to the procedures in subrule (3) of this rule.

(c) The CAIR authorized account representative of a CAIR NOx unit under this rule may submit to the department a written request, in a format specified by the department, to receive CAIR NOx annual hardship allowances. The authorized account representative shall submit the request for the amount of estimated hardship allowances they need, using historical annual heat input utilization levels multiplied by historical oxides of nitrogen emission rates, in the following manner:

(i) Historical heat input utilization levels shall be based on the unit's average of the 2 highest heat input utilization levels for the annual control period in the 5 years immediately preceding the year in which the department is required to submit the oxides of nitrogen allocations to the U.S. environmental protection agency. If the unit operated less than 2 years during the 5-year time period, then the unit's single highest heat input level shall be used.

(ii) Historic oxides of nitrogen rates shall be based on the oxides of nitrogen rate reported by the authorized account representative in its 40 C.F.R. part 75 reports to the U.S. environmental protection agency in the calendar year immediately preceding the year in which the department is required to submit the oxides of nitrogen allocation.

(iii) Units receiving hardship allowances shall receive a 3-year allocation that is 2 and 3 years in advance of the 2009 and 2010 annual control periods, respectively, and 4 years in advance of each subsequent annual control period. The 3-year allocation shall be the same as provided in R 336.1830(2).

(d) The department shall allocate the allowances based on the requests received as follows:

(i) If the allocation hardship set-aside pool for the CAIR NOx annual control period for which CAIR NOx annual allowances are requested has an amount of oxides of nitrogen allowances greater than or equal to the number requested, then the department shall allocate the amount of the CAIR NOx annual budget allowances requested.

(ii) If the allocation hardship set-aside pool for the CAIR NO_x annual control period for which CAIR NO_x annual allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, then the department shall proportionately reduce the number of CAIR NO_x annual allowances allocated to each CAIR NO_x annual unit so that the total number of CAIR NO_x annual allowances allocated are equal to the amounts referenced in subdivision (a) of this subrule.

(3) The department shall allocate CAIR NO_x annual hardship allowances to existing EGUs which have submitted an engineering analysis as described as follows:

(a) The authorized account representative shall demonstrate to the department that the control level required pursuant to this rule results in excessive or prohibitive cost for compliance. The demonstration shall include all of the following:

(i) An engineering study analyzing all control options that are technically available for the unit, including control options that would achieve a level of control meeting, at a minimum, a 0.15 pound per million Btu emission rate.

(ii) The annualized cost associated with each control option. An annualized cost of more than \$2,400 per ton of oxides of nitrogen reduced shall generally be considered to be an excessive cost for compliance with this rule.

(iii) Other considerations that contribute to prohibitive cost of compliance.

(b) For a source to remain eligible for hardship allowances under this rule after the initial 3-year allocation period, ending on December 31, 2011, the state may require a revised engineering analysis and demonstration as detailed under subrule (3)(a) of this rule, at a minimum of once every 3 years.

R 336.1833 CAIR NO_x annual trading program; compliance supplement pool.

Rule 833. (1) The department shall allow sources required to implement CAIR NO_x control measures by January 1, 2009, and subject to this rule to demonstrate compliance using allowances issued from the compliance supplement pool under this rule, as follows:

(a) The total number of CAIR NO_x allowances available to existing EGUs, for early reduction purposes from the compliance supplement pool, shall not be more than 6,491 tons of oxides of nitrogen.

(b) The total number of CAIR NO_x allowances available for the newly-affected EGUs, for hardship purposes from the compliance supplement pool, shall not be more than 1,856 tons of oxides of nitrogen.

(c) Any CAIR NO_x allowances that remain in the compliance supplement pool after the 2009 control period shall be retired.

(d) Sources that receive allowances according to the requirements of this rule may trade the allowance to other sources or persons according to the provisions in the CAIR NO_x annual trading program.

(2) The department shall issue early reduction allowances to existing EGUs as follows:

(a) The emissions reduction shall not be required by Michigan's state implementation plan, state law, or rule, or be otherwise required by federal law.

(b) The emissions reduction shall be verified by the source as actually having occurred during the calendar years of 2007 and 2008.

(c) Each CAIR NO_x unit for which the owner or operator requests any early reduction allowances under this rule shall monitor oxides of nitrogen emissions under 40 C.F.R. part 75, subpart H, which are adopted by reference in R 336.1802a, starting not less than 1 calendar year before the annual control period for which the early reduction allowances are requested. The unit's monitoring system availability shall be not less than 90 percent during the control period in which monitoring occurs for this purpose and the unit shall be in compliance with any applicable state or federal emissions or emissions-related requirements.

(d) The emissions reduction shall be quantified according to procedures set forth in 40 C.F.R. part 75, subpart H.

(e) The emissions reduction request shall include both of the following:

(i) The CAIR NO_x authorized account representative may request early reduction allowances for the annual control period in an amount equal to the unit's heat input for the year, multiplied by the difference between the rates in both of the following provisions, divided by 2,000 pounds per ton, and rounded to the nearest ton:

(A) The oxides of nitrogen emission limit required by Michigan's state implementation plan, otherwise required by the clean air act, or 0.25 pound per million Btu heat input, whichever is most stringent.

(B) The unit's actual oxides of nitrogen emission rate for the 2007 and 2008 calendar years, which shall be lower than the rate used in subparagraph (A) of this paragraph and less than 80% of the actual 2005 annual oxides of nitrogen emission rate, expressed as pound per million Btu heat input.

(ii) The early reduction allowance request shall be submitted in writing, in a format specified by the department, not later than July 1, 2009, for the 2007 and 2008 control periods.

(f) The department shall allocate CAIR NO_x allowances to CAIR NO_x units meeting the requirements of this subdivision and requesting early reduction allocations, in the following manner:

(i) Upon receipt of each early reduction allowance request, the department shall accept the request only if the requirements of subdivisions (a) to (e) of this subrule are met and, if the request is accepted, shall make any necessary adjustments to the request to ensure that the amount of the early reduction allowances requested meets the requirement of subdivisions (a) to (e) of this subrule.

(ii) If the compliance supplement pool has an amount of CAIR NO_x allowances equal to or greater than the number of early reduction allowances in all accepted early reduction allowance requests for 2007 and 2008, as adjusted under paragraph (i) of this subdivision, the department shall allocate to each CAIR NO_x unit covered by the accepted requests 1 allowance for each early reduction allowance requested, as adjusted under paragraph (i) of this subdivision.

(iii) If the compliance supplement pool has an amount of CAIR NO_x allowances less than the number of early reduction allowances in all accepted early reduction allowance requests for 2007 and 2008, as adjusted under paragraph (i) of this subdivision, the department shall allocate CAIR NO_x allowances to each CAIR NO_x unit covered by the accepted requests according to the following formula and rounding to the nearest whole allowance as appropriate:

$$\text{Allocated ERC} = \left(\frac{\text{Units ERC requested}}{\text{Total requested ERC}} \right) \times \text{Available CAIR NO}_x \text{ Allowances}$$

Where:

ERC = Early reduction allowances.

Allocated ERCs = Each unit's allocated early reduction allowances.

Total requested ERCs = The total amount of ERCs requested by all units from the compliance supplement pool.

Available CAIR NO_x Allowances = The total amount of allowances available from the early reduction portion of the compliance supplement pool.

(3) The department shall issue hardship allowances to newly-affected EGUs for which compliance with the CAIR NO_x emissions limitations would create an undue risk to the reliability of electricity supply during the 2009 control period. The CAIR NO_x authorized account representative of the newly-affected EGU may request the allocation of CAIR NO_x allowances from the compliance supplement pool under subrule (1)(b) of this rule, pursuant to the following:

(a) The CAIR NO_x authorized account representative shall submit to the department by July 1, 2009, a written request, in a format specified by the department, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the minimum amount of CAIR NO_x allowances necessary to remove the undue risk to the reliability of electricity supply.

(b) The CAIR NO_x authorized account representative shall demonstrate that, in the absence of allocation of the amount of CAIR NO_x allowances requested, the unit's compliance with the CAIR NO_x emissions limitation for the 2009 control period would create an undue risk to the reliability of electricity supply during the 2009 control period. This demonstration shall include both of the following:

(i) A showing that it would not be possible for the owners and operators of the unit to obtain sufficient amounts of electricity from other electric generation facilities during the installation of control technology at the unit for compliance with the CAIR NO_x emission limitation to prevent such undue risk.

(ii) A showing that it would not be possible for the owners and operators of the unit to obtain sufficient amounts of allowances under subrule (2) or from other sources or persons to prevent such undue risk.

(c) The department shall review each request submitted by July 1, 2009, and allocate CAIR NO_x allowances for the 2009 control period to requesting units as follows:

(i) Upon receipt of each hardship request, the department shall accept the request only if the requirements of subdivisions (a) and (b) of this subrule are met and, if the request is accepted, shall make any necessary adjustments to the request to ensure that the amount of the CAIR NO_x hardship allowances requested meets the requirements of subdivisions (a) and (b) of this subrule.

(ii) If the compliance supplement pool has an amount of CAIR NO_x hardship allowances equal to or greater than the number of CAIR NO_x allowances in the hardship requests, the department shall allocate to each CAIR NO_x unit the amount of CAIR NO_x allowances requested, as adjusted under paragraph (i) of this subdivision.

(iii) If the compliance supplement pool has an amount of CAIR NO_x allowances less than the number of hardship allowances in all accepted hardship requests, as adjusted under paragraph (i) of this subdivision, the department shall allocate CAIR NO_x allowances to each CAIR NO_x unit covered by the accepted requests according to the following formula and rounding to the nearest whole allowance as appropriate:

$$\text{Adjusted Allocation} = \text{Requested Allocation} \times \left(\frac{\text{Available Pool Allocations}}{\text{Total adjusted allocation for all units}} \right)$$

Where:

Adjusted allocation = The number of CAIR NO_x hardship allowances allocated to the unit from the state's compliance supplement pool.

Requested allocation = The amount of CAIR NO_x hardship allowances requested for the unit.

Available pool allocations = The amount of CAIR NO_x hardship allowances in the state's compliance supplement pool.

Total adjusted allocations for all units = The sum of the amounts of hardship allocations requested for all units, as adjusted.

(4) The department shall complete its review process not later than September 1, 2009. By November 30, 2009, the department shall determine, and submit to the U.S. environmental protection agency, the allocations under subrules (2) or (3) of this rule.

R 336.1834 Opt-in provisions under the CAIR NO_x annual trading program.

Rule 834. The opt-in provisions in 40 C.F.R. §§97.180 through 97.188 are adopted by reference in R 336.1802a and are applicable to this rule.

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

MCL 24.256(1) states in part:

“Sec. 56. (1) The State Office of Administrative Hearings and Rules shall perform the editorial work for the Michigan register and the Michigan Administrative Code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the State Office of Administrative Hearings and Rules, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The State Office of Administrative Hearings and Rules may correct in the publications obvious errors in rules when requested by the promulgating agency to do so...”

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

MEMORANDUM

DATE: June 20, 2007

TO: Norene Lind, Regulatory Affairs Manager
State Office of Administrative Hearings and Rules

FROM: Jeannine Benedict, Administrative Rules Specialist
MDLEG, Office of Policy and Legislative Affairs

SUBJECT: Request for correction of the MIOSHA General Industry Part 39 Design Safety Standards for Electrical Systems Rule R 408.13902 (1) pursuant to Administrative Procedures Act, Section 56(1), MCL 24.256 (1).

The MIOSHA Standards section, as a promulgating agency, is writing to request that the State Office of Administrative Hearings and Rules exercise its discretion to an obvious error in the MIOSHA Rules, pursuant to the Administrative Procedures Act, Section 56(1), MCL 24.256 (1).

The error is contained in R 408.13902(1). The rule was promulgated this month; it was filed with the Office of Great Seal on June 11, 2007 and will be effective on June 27, 2007. The final rule has not been printed in the Michigan Register yet.

The affected rule and line currently reads (bolding added):

*Rule 3902. (1) The federal occupational safety and health administration's regulations on electrical safety promulgated by the United States department of labor and **codified at 29 CFR 1910.303 to 1910.308 and CFR 1910.399, Design Safety Standards for Electrical Systems, February 14, 2007 and appearing in the Federal Register, Volume 72, No 30 on pp. 7135 to 7221 are adopted by reference in these rules as of the effective date of these rules.***

The language of the rule should read as follows: **codified at 29 CFR 1910.302 to.....**

The rest of the section talks about the Federal Register volume and page numbers adopted and in there it is **1910.302**; therefore we believe this should be an obvious error to correct since we adopted the correct pages in the Federal Register with the correct sections.

If you have any questions about this transmittal, you may contact me at 517.335.2626.

cc: Agency Liaison, Marsha Parrott-Boyle

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2007 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2007 SESSION)**

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1		191	Yes	3/1	3/1	3/1/07	Occupations; accounting; qualifications for certified public accountants; revise, and provide certain changes to the peer review requirement. (Sen. R. Richardville)
2		184	Yes	3/19	3/19	3/19/07	State financing and management; budget; expenditure exceeding appropriation level; require notification. (Sen. R. Jelinek)
3		166	Yes	3/19	3/19	3/19/07	Appropriations; zero budget; supplemental appropriations; provide for certain fiscal years. (Sen. R. Jelinek)
4		014	Yes	3/22	3/22	3/22/07	Agriculture; other; loan repayment for sugar beet cooperatives; extend. (Sen. J. Barcia)
5		176	Yes	3/22	3/23	3/23/07	Health facilities; other; appropriated amount of quality assurance assessment collected; increase. (Sen. D. Cherry)
6		221	Yes	4/30	4/30	4/30/07	Appropriations; supplemental; negative supplemental school aid bill; provide for fiscal year 2006-2007. (Sen. R. Jelinek)
7		404	Yes	5/4	5/4	5/4/07	Appropriations; supplemental; multidepartment supplemental for fiscal year 2006-2007; provide for. (Sen. R. Jelinek)
8	4143		Yes	5/10	5/11	5/11/07	Watercraft; violations; certain marine safety misdemeanor violations; designate as state civil infraction. (Rep. S. Bieda)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
9	4482		Yes	5/18	5/18	5/18/07	Human services; other; certain family independence program eligibility and sanction for certain noncompliance; clarify. (Rep. B. Clack)
10	4327		Yes	5/24	5/24	5/24/07	Crimes; other; prohibition against selling tomatoes that are not vine-ripened; repeal. (Rep. D. Spade)
11	4322		Yes	5/24	5/24	5/24/07	Liquor; licenses; issuance of on-premises liquor license for certain universities; expand to include certain entities located in Oakland community college and Macomb community college. (Rep. B. Farrah)
12		400	Yes	5/29	5/29	5/29/07 #	Economic development; plant rehabilitation; definition of industrial property; modify. (Sen. J. Allen)
13	4629		Yes	5/29	5/29	5/29/07 #	Economic development; plant rehabilitation; strategic response center; provide for definition. (Rep. G. McDowell)
14	4721		Yes	5/29	5/29	5/29/2007	Environmental protection; water pollution; baseline environmental assessment fee; extend sunset. (Rep. D. Bennett)
15	4530		Yes	6/6	6/6	6/6/07	Retirement; public school employees; actuarial liability contribution; modify. (Rep. L. Gonzales)
16	4512		Yes	6/6	6/6	6/6/07	Retirement; state employees; actuarial liability contribution; modify. (Rep. L. Gonzales)
17		436	Yes	6/6	6/6	6/6/07 +	Appropriations; supplemental; multidepartment supplemental for fiscal year 2007; provide for. (Sen. R. Jelinek)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

MICHIGAN ADMINISTRATIVE CODE TABLE
(2007 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(i) Other official information considered necessary or appropriate by the State Office of Administrative Hearings and Rules.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2007 RULE FILINGS)**

R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue
32.71	A	10	325.2657	*	3	338.3162	*	4
32.72	A	10	325.2658	*	3	338.3162b	*	4
32.73	A	10	325.52601	A	10	338.3162c	*	4
32.74	A	10	325.52602	A	10	338.3162d	*	4
32.75	A	10	325.60025	*	3	339.22203	*	2
32.76	A	10	336.1660	A	2	339.22213	*	2
32.77	A	10	336.1661	A	2	339.22601	*	2
32.78	A	10	336.1802a	A	12	339.22602	*	2
32.79	A	10	336.1803	*	12	339.22603	*	2
32.8	A	10	336.1821	A	12	339.22604	*	2
32.81	A	10	336.1822	A	12	339.22605	*	2
32.82	A	10	336.1823	A	12	339.22606	A	2
32.83	A	10	336.1824	A	12	339.22607	*	2
32.84	A	10	336.1825	A	12	339.22609	*	2
32.85	A	10	336.1826	A	12	339.22613	*	2
32.86	A	10	336.1830	A	12	339.22615	*	2
32.87	A	10	336.1831	A	12	339.22617	*	2
32.88	A	10	336.1832	A	12	339.22631	*	2
32.89	A	10	336.1833	A	12	339.22639	R	2
205.56	*	6	336.1834	A	12	339.22641	R	2
205.72	*	6	338.471a	*	4	339.22645	*	2
205.126	*	6	338.472	*	4	339.22651	*	2
205.127	*	6	338.473	*	4	339.22652	A	2
205.136	*	6	338.473a	*	4	339.22653	R	2
281.421	A	3	338.473d	*	4	339.22654	R	2
281.422	A	3	338.474a	*	4	339.22655	R	2
281.423	A	3	338.475	*	4	339.22659	*	2
281.424	A	3	338.479a	*	4	339.22663	R	2
281.425	A	3	338.489	*	4	339.22664	R	2
281.426	A	3	338.3041	*	4	339.22665	*	2
281.427	A	3	338.3043	*	4	388.1	A	6
281.428	A	3	338.3044	*	4	388.2	A	6
281.429	A	3	338.3102	*	4	388.3	A	6
325.2651	*	3	338.3120	*	4	388.4	A	6
325.2652	*	3	338.3123	*	4	388.5	A	6
325.2653	*	3	338.3125	*	4	388.6	A	6
325.2654	*	3	338.3132	*	4	388.7	A	6
325.2655	*	3	338.3154	*	4	388.8	A	6
325.2656	*	3	338.3161	*	4	388.9	A	6

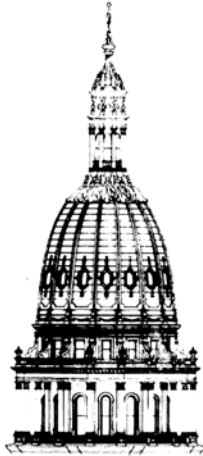
(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue
388.1	A	6	408.17610	R	10	408.42804	A	5
388.11	A	6	408.17612	R	10	408.42806	A	5
388.12	A	6	408.17613	R	10	408.42809	A	5
388.13	A	6	408.17614	R	10	418.56	*	4
388.14	A	6	408.17615	R	10	418.10107	*	6
388.15	A	6	408.17616	R	10	418.10202	*	6
388.16	A	6	408.17618	R	10	418.10401	*	6
388.17	A	6	408.17620	R	10	418.10404	*	6
388.18	A	6	408.17621	R	10	418.10416	*	6
400.9101	*	2	408.17622	R	10	418.10504	A	6
400.9306	*	2	408.17623	R	10	418.10505	A	6
400.9401	*	2	408.17624	R	10	418.10902	*	6
400.9501	*	2	408.17630	R	10	418.10922	*	6
400.12101	*	2	408.17631	R	10	418.101002	*	6
400.12202	*	2	408.17632	R	10	418.101002b	A	6
400.12214	A	2	408.17633	R	10	418.101004	*	6
400.12310	*	2	408.17636	R	10	418.101005	*	6
400.12312	*	2	408.17637	R	10	418.101016	*	6
400.12605	*	2	408.17640	R	10	418.101017	R	6
408.43a	*	4	408.17641	R	10	418.101018	R	6
408.43i	*	4	408.17650	R	10	418.101019	R	6
408.43k	*	4	408.17651	R	10	418.101502	R	6
408.43m	*	4	408.17696	R	10	418.101504	*	6
408.43q	*	4	408.17699	R	10	421.1101	*	4
408.61	*	8	408.42602	*	5	421.1103	*	4
408.65	*	8	408.42605	*	5	421.1104	*	4
408.802	*	8	408.42608	*	5	421.1108	*	4
408.806	*	8	408.42609	*	5	421.1109	*	4
408.833	*	8	408.42616	*	5	421.1110	*	4
408.852	*	8	408.42624	R	5	421.1111	*	4
408.882	*	8	408.42625	R	5	421.1301	*	4
408.891	*	8	408.42628	*	5	421.1301	*	4
408.13902	*	11	408.42629	*	5	421.1302	*	4
408.17601	*	10	408.42634	*	5	421.1304	*	4
408.17602	*	10	408.42636	*	5	421.1305	*	4
408.17603	R	10	408.42648	*	5	421.1307	*	4
408.17605	R	10	408.42651	*	5	421.1314	*	4
408.17607	R	10	408.42655	*	5	421.1315	*	4
408.17609	R	10	408.42801	A	5	421.1316	*	4

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue
431.2090	*	9	460.2701	A	3
431.2120	*	9	460.2702	A	3
431.3075	*	9	460.2703	A	3
431.3110	*	9	460.2704	A	3
431.4001	*	9	460.2705	A	3
431.4180	*	9	460.2706	A	3
432.21305	*	5	460.2707	A	3
432.21313	*	5	500.2211	A	9
432.21316	*	5	500.2212	A	9
432.21317	*	5	550.111	A	4
432.21326	*	5	550.112	A	4
432.21327	*	5	550.301	A	4
432.21331	*	5	550.302	A	4
432.21332	*	5	500.2201	A	9
432.21333	*	5	500.2202	A	9
432.21335	*	5			
432.21336	*	5			
432.21406	*	5			
432.21408	*	5			
432.21410	*	5			
432.21412	*	5			
432.21413	*	5			
432.21416	*	5			
432.21417	*	5			
432.21418	*	5			
432.21516	*	5			
432.21520	*	5			
432.21609	*	5			
432.21617	*	5			
432.21621	*	5			
432.21622	*	5			
432.21623	*	5			
432.21805	*	5			
432.21811	*	5			
432.22004	*	5			
432.22005	*	5			
432.22006	*	5			
432.22007	*	5			
436.1629	*	9			

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



**CUMULATIVE
INDEX**

A

AGRICULTURE, DEPARTMENT OF

Bodies of Dead Animals (2007-5*)

Office of Racing Commissioner - General Rules (2007-9)

ATTORNEY GENERAL, DEPARTMENT OF

Opinions

Incompatibility of Offices of Deputy County Treasure And Township Treasurer

OAG No. 7193 (2007-2)

Determining life-cycle costs of pavement used in highway projects

OAG No. 7194 (2007-9)

Application of the exemption from the prohibition against stock ownership under

OAG No. 7195 (2007-9)

Allowable public investment in flexible repurchase agreements

OAG No. 7196 (2007-9)

Authority of Commissioner of the Office of Financial and Insurance Services to share confidential information with regulatory agencies of foreign countries

OAG No. 7197 (2007-9)

Incompatibility of offices of deputy county treasurer and township treasurer

OAG No. 7198 (2007-9)

Legality of ordinance allowing use of unmanned traffic monitoring device to support citation for civil infraction

OAG No. 7199 (2007-9)

Length of term of office of Executive Director of Michigan Gaming Control Board and manner of appointment to office

OAG No. 7200 (2007-9)

Compliance with Michigan Zoning Enabling Act

OAG No. 7201 (2007-9)

* Proposed Rules

Constitutionality of City's construction policy that provides bid discounts on the basis of race or sex
OAG No. 7202 (2007-9)
Reduction of funds in the Automobile Theft Prevention Program by Executive Order 2007-3
OAG No. 7203 (2007-9)

C

**COMMUNITY HEALTH, DEPARTMENT OF
Certificate of Need**

Magnetic Resonance Imaging (MRI) Services (2007-10)
Hospital Beds (2007-10)
Positron Emission Tomography (PET) Scanner Services (2007-10)
Bone Marrow Transplantation Services (2007-10)

Board of Pharmacy (2007-4)
Board of Pharmacy – Controlled Substances (2007-4)
Board of Pharmacy – Continuing Education (2007-4)
Child Death Scene Investigation (2007-4*)
Determination of Deaths of Children (2007-9*)
Lead Hazard Control (2007-11*)
Reporting of Non-Suicidal, Non-Medical Chemical Poisonings (2007-7*)
Rights of Recipients (2007-9*)

E

**EDUCATION, DEPARTMENT OF
Correction of Obvious Error**

Certification and Licensure of School Counselors (2007-3)

Special Education Programs and Services (2007-9*)
Teachers' Tenure (2007-9*)

**ENVIRONMENTAL QUALITY, DEPARTMENT OF
Correction of Obvious Error**

Part 9. Emission Limitations and Prohibitions - Miscellaneous (2007-9)

Part 4 Emissions Limitations and Prohibitions Sulfur Bearing Compounds (2007-10*)
Part 6. Emission Limitations and Prohibitions –Existing Sources for Volatile Organic Compounds and Emissions (2007-10*)
Part 8. Emission of Oxides of Nitrogen From Stationary Sources (2007-12)
Part 12 Emissions Averaging and Emission Reduction Credit Trading (2007-10*)
Part 17. Soil Erosion and Sedimentation Control (2007-8*)
Part 19 New Source Review for Major Sources Impacting Non-attainment Areas (2007-10*)
Great lakes Bottomland Preserve Grand Traverse Bay (2007-10*)

**EXECUTIVE OFFICE
Executive Reorganization
No. 1 (2007-2)**

* Proposed Rules

No. 2 (2007-3)
No. 3 (2007-5)
No. 4 (2007-9)
No. 5 (2007-9)
No. 6 (2007-9)
No. 7 (2007-9)
No. 8 (2007-9)
No. 9 (2007-9)
No. 10 (2007-9)
No. 11 (2007-9)
No. 12 (2007-9)
No. 13 (2007-9)
No. 14 (2007-9)
No. 15 (2007-9)
No. 16 (2007-9)
No. 17 (2007-9)
No. 18 (2007-9)
No. 19 (2007-9)
No. 20 (2007-9)
No. 21 (2007-9)
No. 22 (2007-9)
No. 23 (2007-9)
No. 24 (2007-9)
No. 25 (2007-9)
No. 26 (2007-9)
No. 27 (2007-9)
No. 28 (2007-9)
No. 29 (2007-9)
No. 30 (2007-10)
No. 31 (2007-10)
No. 32 (2007-10)
No. 33 (2007-10)
No. 34 (2007-10)
No. 35 (2007-10)
No. 36 (2007-10)
No. 37 (2007-10)

L

LABOR AND ECONOMIC GROWTH, DEPARTMENT OF Correction of Obvious Error

MIOSHA - Part 11. Recording and reporting of Occupation Injuries and Illnesses (2007-1)
MIOSHA – Part 18. Fire Protection and Prevention (2007-1)
...Part 39 Design Safety Standards for Electric Systems (2007-12)
Workers' Compensation Health Care Services Rules (2007-9)
Workers' Compensation Agency (2007-10)
Ski Area Safety (2007-11)

Notice of Proposed and Adopted Agency Guidelines

Guidelines for the Acquisition of Capital Stock upon Conversion Of a Domestic Mutual Insurer to a Domestic Stock Insurer (2007-9)

State of Michigan Land Bank Fast Track Authority Policies and Procedures for Property Acquisition and Disposition (2007-10)

Administrative Appellate Procedures (2007-6*)

Beer Rules (2007-9)

Carnival and Amusement Safety (2007-8)

Certificates – Discretionary Clauses (2007-4)

Construction Code Part 4. Building Code (2007-7*)

Credit Insurance Policy Forms – Discretionary Clauses (2007-4)

Employment Security Board of Review (2007-4)

Filing Procedures for Electric, Wastewater, Stream, and Gas Utilities (2007-1*)

Insurance Policy Forms – Discretionary Clauses (2007-4)

Insurance Policy Forms – Shortened Limitation of Action Clauses (2007-9)

Michigan Boiler Rules (2007-3*)

Part. 26. Steel Erection (2007-5)

Part 39. Design Safety Standards for Electrical Systems (2007-11)

Part 76. Spray Finishing Using Flammable and Combustible Materials (2007-10)

Part 451. Respiratory Protection (2007-3)

Part 526. Dipping and Coating Operations (2007-10)

Personnel Hoisting (2007-5)

Private Security Guards and Security Alarm Agencies (2007-3*)

Real Estate Appraisers (2007-10*)

Real Estate Licensing/Distance Education Standards (2007-2)

Rehabilitation Code (2007-7*)

Rules and Regulations Governing Animal Contact Current Mitigation (2007-3)

Ski Area Safety Board (2007-8)

Telecommunications Basic Local Exchange Service Quality (2007-8*)

Workers' Compensation Agency - General Rules (2007-4)

Workers' Compensation Board of Magistrates - General Rules (2007-4)

Workers Compensation Health Care Services (2007-6)

H

HUMAN SERVICES, DEPARTMENT OF

Licensing Rules for Foster Family Homes and Foster Family Group Homes (2007-2)

Licensing Rules for Child Placing Agencies (2007-2)

M

MILITARY & VETERANS AFFAIRS, DEPARTMENT OF

Veterans Home Rules (2007-10)

N

NATURAL RESOURCES, DEPARTMENT OF

Open and Prescribe Burning (2007-3)

S

**STATE POLICE, DEPARTMENT OF
Correction of Obvious Error**

Law Enforcement Standards and Training (2007-3)

Tests for Breath Alcohol (2007-3*)

Test for Breath Alcohol (2007-9*)

T

TRANSPORTATION, DEPARTMENT OF

Local Bridge Program (2007-8*)

TREASURY, DEPARTMENT OF

Charitable Gaming (2007-5)

General Sales and Use Tax (2007-6)

Federal Family Education Loan Program (2007-8*)

School Bond Qualification, Approval and Loan Rules (2007-6)